

Cite as 2019 Ark. App. 257
ARKANSAS COURT OF APPEALS

DIVISION I
No. CV-18-967

BRENDA K. CHEATHAM

APPELLANT

V.

HAROLD CHEATHAM

APPELLEE

Opinion Delivered: May 8, 2019

APPEAL FROM THE LAFAYETTE
COUNTY CIRCUIT COURT
[NO. 37CV-17-57]

HONORABLE KIRK D. JOHNSON,
JUDGE

DISMISSED
WITHOUT PREJUDICE

RAYMOND R. ABRAMSON, Judge

Brenda K. Cheatham appeals from the Lafayette County Circuit Court order entered following a bench trial. On appeal, Brenda argues that the circuit court erred by finding that (1) the Uniform Power of Attorney Act applied to bank transfers in which both parties are joint owners of a bank account and (2) she used undue influence to obtain a power of attorney from her father, Harold Cheatham. We must dismiss the appeal for lack of a final, appealable order.

On October 6, 2017, Harold filed a complaint against Brenda alleging that she had fraudulently induced him into giving her a power of attorney and that she had breached her fiduciary duties owed to him by transferring \$14,267.03 from his bank account to her

personal account and by conveying his real and personal property¹ to herself. He further alleged that she had entered his lockbox without his consent and removed \$2,000.

On January 29, 2018, Brenda filed a countercomplaint. She asserted that Harold was in wrongful possession of her personal property.² She also asserted that she had “purchased Lot 10, Norwood addition, in the township of Stamps, Arkansas, and Kathy Tallant fraudulently gained conveyance of this land on behalf of [Harold.]” She further alleged that Harold had willfully and maliciously published false information that she had defrauded him, which had damaged her reputation and caused her humiliation. She asked the court to convey the real property to her and to order Harold to return her personal property, to reimburse her for car repairs, and to reimburse her for property taxes. She requested punitive damages and attorney’s fees and costs.

The court held a bench trial on May 3, 2018, and on July 12, it entered a judgment ordering Brenda to return all the real and personal property identified in Harold’s complaint to him and to pay him \$16,267.03, representing the funds transferred from his bank account and lockbox. The order incorporated a June 12, 2018 letter opinion. Brenda appealed the July 12 order to this court.

Under Rule 54(b) of the Arkansas Rules of Civil Procedure, an order is not final for purposes of appeal when it adjudicates fewer than all the claims or the rights and liabilities

¹The personal property included firearms and vehicles.

²The personal property included miscellaneous household items, firearms, and vehicles.

of fewer than all the parties. *Bulsara v. Watkins*, 2010 Ark. 453; *see, e.g., City of Corning v. Cochran*, 350 Ark. 12, 84 S.W.3d 439 (2002) (dismissing appeal because there was no final order when a circuit court did not rule on a counterclaim and did not specifically rule on the City’s claim of conversion); *Belcher v. Denton*, 2015 Ark. App. 492 (dismissing appeal when judgment appealed from did not dispose of punitive-damages claim and there was “some question” whether it completely disposed of all of the estate’s and beneficiaries’ claims). The existence of a final order is a jurisdictional requirement for bringing an appeal that this court is obliged to raise even though the parties do not. *Spurling v. Reed*, 2018 Ark. App. 175.

In this case, the circuit court did not dispose of Brenda’s counterclaims. Specifically, the court did not rule on Brenda’s claims concerning her personal property,³ the Norwood lot, and defamation. There was no Rule 54(b) certificate included with the order on appeal, and Brenda did not abandon all pending but unresolved claims in her notice of appeal. Because there are outstanding claims, we must dismiss the appeal for lack of a final, appealable order.

Dismissed without prejudice.

HARRISON and VAUGHT, JJ., agree.

Harrelson Law Firm, P.A., by: *Steve Harrelson*, for appellant.

Wilson, Walker & Short, by: *Charles M. Walker*, for appellee.

³The July 12, 2018 order addressed some, but not all, of the personal property listed in Brenda’s complaint.